

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

ANTHEL L. BROWN,	)	CV 05-28-H-CSO
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
BRIAN SCHWEITZER; BILL SLAUGHTER;	)	
JAMES MacDONALD; MR. S. LAW; MS.	)	
CALVI; MS. LAMEY; JOHN FERGUSON;	)	
ALLISON VARNUM,	)	
	)	
Defendants.	)	
	)	

---

Plaintiff Brown has submitted a proposed Complaint alleging civil rights violations under 42 U.S.C. § 1983 but has failed to pay the filing fee. United States Magistrate Judge Carolyn S. Ostby issued an Order explaining to Plaintiff Brown that pursuant to 28 U.S.C. § 1915(g) he is not permitted to proceed *in forma pauperis* in this case because he has had more than three actions dismissed. Brown was instructed to pay the \$250.00 filing fee or explain why he should not be required to do so.

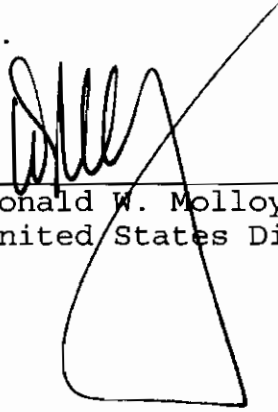
Brown filed a written response, but failed to address the matter of the filing fee. Accordingly, Judge Ostby recommended that this action be dismissed for failure to pay the filing fee.

Plaintiff did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I find no clear error with Judge Ostby's Findings and Recommendation (dkt #5) and therefore adopt it in full.

Accordingly, IT IS HEREBY ORDERED that the Complaint is DISMISSED for failure to pay the filing fee.

DATED this 23<sup>rd</sup> day of May, 2006.

  
\_\_\_\_\_  
Donald W. Molloy, Chief Judge  
United States District Court